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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,087	04/19/2004	Kuang-Kai Liu	9607	1863

27752 7590 07/18/2006

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EXAMINER

BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/827,087

Applicant(s)

LIU, KUANG-KAI

Examiner

Michael G. Bogart

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-13 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 10 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections – 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8 and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Olson *et al.* (WO 00/76442 A1)(hereinafter: “Olson”).

Regarding claims 1 and 13, Olson teaches a disposable absorbent article (20) and method of making the same comprising:

- a) a liquid pervious topsheet (42);
- b) a liquid impervious backsheet (40) that is at least partially joined to the topsheet (42);
- c) an absorbent core (44) disposed at least partially between the topsheet (42) and the backsheet (40); and
- d) a wetness indicator disposed between the absorbent core (44) and the backsheet (40) and in liquid communication with the absorbent core (44)(e.g., printed on backsheet interior surface); the wetness indicator comprising a hidden central graphic (78) and a background graphic (70);

wherein the background graphic (70) comprises at least one responsive color composition and that, upon wetting, exhibits a visible change that is selected from the group consisting of a

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color change, a graphic change, and combinations thereof and wherein the hidden graphic is revealed (Abstract; page 19, lines 31-page 20, line 6)(see fig. 1, infra).

Regarding the appearing when wetted aspects of the hidden graphic, this is a functional limitation. Apparatus claims must be structurally distinguishable from the prior art. MPEP § 2114.

Regarding claim 8, Olson teaches a second color change element (page 12, lines 11-14).

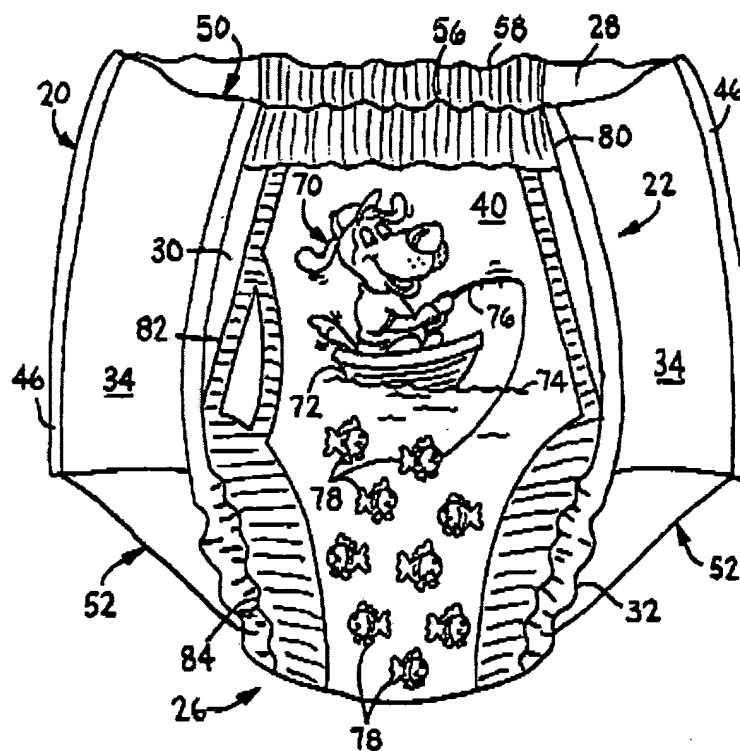


FIG. 1

***Claim Rejections – 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-7 and 9-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Olson as applied to claims 1, 8 and 13, above, and further in view of Baker *et al.* (US 3,675,654; hereinafter “Baker”), Ball US 4,909,879) and Ito *et al.* (US 5,595,754 A; hereinafter “Ito”).

Regarding claims 2-5, 9, 11 and 12, Olson does not teach the specific types/forms of pigments, dyestuffs solvents or a varnish coating.

These components are commonly issued in a wide variety of combinations in textile graphics production and in changeable graphics/indicators in absorbent articles. For example:

Baker teaches a varnish coating used to coat a moisture-actuated indicating agent (col. 1, lines 40-47) and solid pigment particles (col. 7, lines 31-44).

Ito teaches a non-aqueous solvent (claim 1).

Ball teaches the use of soluble dyestuff (abstract).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to add the component materials of the secondary references to make the graphics of Olson in order to provide very well known components of graphics/indicator/dye formation.

Regarding the specific ranges of materials, generally, differences in ranges will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. “[W]here the general conditions of a

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claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

A particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977). MPEP § 2144.05.

One of ordinary skill in the art would have recognized the benefits of increasing or decreasing the amount of pigment, dyestuff, or solvent and would have been motivated to find the optimal weight % of each component.

Regarding claims 6 and 7, Olson teaches a permanent background graphic but does not teach a permanently colored central graphic. This amounts to an aesthetic design change, which cannot patentably distinguish the invention over the prior art. See *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

Regarding claim 10, Olson teaches a second color change element (page 12, lines 11-14).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

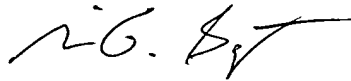
In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart  
5 July 2006

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

